

Message

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**From:** Henson, Clayton T. EOP/WHO [Ex. 6 PP]  
**Sent:** 11/3/2017 3:03:18 PM  
**To:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Subject:** RE: Invitation for Administrator Pruitt

Let's talk sometime today.

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**From:** Bennett, Tate [mailto:Bennett.Tate@epa.gov]  
**Sent:** Friday, November 3, 2017 11:02 AM  
**To:** Henson, Clayton T. EOP/WHO [Ex. 6 PP]  
**Subject:** RE: Invitation for Administrator Pruitt

Ok- back to MI (completely different trip). He is going to speak at their annual meeting on Nov 27 in Grand Rapids. We are thinking about going over to Flint given everything going on there but have to be careful. Do you have any good POC's in Flint? If not, no worries.

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**From:** Henson, Clayton T. EOP/WHO [Ex. 6 PP]  
**Sent:** Thursday, August 24, 2017 9:43 AM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** RE: Invitation for Administrator Pruitt

Tate,

# Deliberative Process / Ex. 5

Grand Rapids is the 2<sup>nd</sup> largest city in Michigan.

Let me know if you need some local contacts or any other recommendations for additional stops. I would be more than happy to help.

Thank you,

Clayton Henson  
White House Office of Political Affairs  
Regional Political Director

[Ex. 6 PP]

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**From:** Bennett, Tate [mailto:Bennett.Tate@epa.gov]  
**Sent:** Thursday, August 24, 2017 9:17 AM  
**To:** Henson, Clayton T. EOP/WHO [Ex. 6 PP]  
**Subject:** FW: Invitation for Administrator Pruitt

Hey there—

See below. We'd love to send the Administrator to MI to visit with these folks. I tend to want to send him at the end of November and during their annual meeting, however, I'll defer to you if some of the other counties would be more preferable on your end.

Let me know.

Tate

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**From:** Campbell, Laura [<mailto:lcampbe@michfb.com>]  
**Sent:** Wednesday, August 23, 2017 10:48 AM  
**To:** Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
**Cc:** Kran, John <[jkran@michfb.com](mailto:jkran@michfb.com)>  
**Subject:** Invitation for Administrator Pruitt

Hi Tate, my name is Laura Campbell from Michigan Farm Bureau. My colleagues at the American Farm Bureau Federation gave me your contact information in order to open some dialogue with Administrator Pruitt's office, and I'm hoping you can help me! Earlier this year, MFB President Carl Bednarski sent a letter to the Administrator regarding the status of our state's delegated authority to administer portions of the Clean Water Act (attached for your reference). President Bednarski has asked me to reach out to your office because he would like to invite the Administrator to visit Michigan. We are a key state in a number of issues that are a high priority for the Administrator:

- Waters of the US – withdrawing the 2015 rule and rewriting a new rule
- Wetlands issues – both related to WOTUS and to Michigan's recent challenges with approval for its delegated authority
- Addressing harmful algae blooms in the Western Lake Erie basin – efforts by agriculture and the need for support of voluntary conservation efforts rather than further regulation
- Additionally, we have significant concerns about another issue EPA has been dealing with in the Courts surrounding the requirement for many livestock farms to report air emission releases under CERCLA and EPCRA, and would like the Administrator to have an opportunity to speak with farmers about the topic.

There are a number of ways we might be able to arrange a visit. If the Administrator has time this fall, he would have an excellent opportunity to see these issues on the ground and speak with farmers dealing with them every day, as well as being able to visit a local Farm Bureau event. If his availability is instead open later in the year, our annual State Farm Bureau meeting hosts more than 1000 visitors and provides opportunities for both small round-table discussions and larger session or banquet speaking opportunities. Could you look at the Administrator's schedule to see if he might be available for a visit on any of the following dates?

- Sep. 12: farm visits and Kent County Farm Bureau Annual meeting
- Sep. 19: farm visits and Cass County Farm Bureau Annual meeting
- Sep. 21: farm visits and Ottawa County Farm Bureau Annual meeting
- Oct. 17: farm visits and St. Joseph County Farm Bureau Annual meeting
- Nov. 2: farm visits and Berrien County Farm Bureau Annual meeting
- Nov. 6: farm visits and Van Buren County Farm Bureau Annual meeting
- Nov. 28-30: MFB State Annual Meeting, Grand Rapids, MI – round table discussions and speaking to a large gathering of Farm Bureau members.

Thank you so much for your help! Please let me know your thoughts and if you have any questions. If the Administrator is interested in a visit to Michigan and none of those dates work for his schedule, please let me know and we would be more than happy to make other arrangements for his visit to be impactful.

Laura A. Campbell  
Manager, Ag Ecology Department

Michigan Farm Bureau

Office: 517-679-5332 **Cellular Phone / Ex. 6**

Email: [lcampbe@michfb.com](mailto:lcampbe@michfb.com)

Message

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**From:** Sands, Jeffrey [sands.jeffrey@epa.gov]  
**Sent:** 11/9/2017 7:46:05 PM  
**To:** Starling, Ray A. EOP/WHO [Ex. 6 PP] Dravis, Samantha [dravis.samantha@epa.gov]  
**CC:** Jackson, Ryan [jackson.ryan@epa.gov]; Catanzaro, Michael J. EOP/WHO [Ex. 6 PP]  
Bennett, Tate [Bennett.Tate@epa.gov]  
**Subject:** RE: CERCLA-NRC

Hi Ray,

Per our email last night, I wanted to close the loop with you on the latest between EPA OEM and NRC in an effort to provide producers certainly and clarity with regards to their CERCLA reporting.

- NRC will create an email notification system so farm owners/operators can email their continuous release rather than calling in. The system will accommodate multiple farms and substances in one email.
- Once an email is received, it will generate a generic identification number (CR-ERNS) that the farm owner/operator can use in the required written notification report required by EPA regional offices within 30 days.
- NRC will email the producers continuous release notification to EPA who will organize the notifications in a spreadsheet rather than EPA Regional offices getting inundated with calls.

EPA and NRC considering the use of e-mail notification in compliance with the immediate notification requirements of CERCLA Section 103, rather than telephone, will help to avoid delays, telephone system crashes, and other inconveniences.

*Both EPA and NRC are working to have this system in place by Tuesday, November 14 or sooner if possible. Initial stakeholder feedback has been positive and we will conduct further outreach on Monday.*

Best,  
Jeff

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**From:** Starling, Ray A. EOP/WHO [Ex. 6 PP]  
**Sent:** Wednesday, November 8, 2017 9:22 PM  
**To:** Dravis, Samantha <dravis.samantha@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>  
**Cc:** Jackson, Ryan <jackson.ryan@epa.gov>; Catanzaro, Michael J. EOP/WHO [Ex. 6 PP]  
**Subject:** RE: CERCLA-NRC

Thank you both – I've since been told you all are being as helpful as possible. Please let us know here if we can do anything to be helpful with the folks outside EPA.

---

**From:** Dravis, Samantha [mailto:dravis.samantha@epa.gov]  
**Sent:** Wednesday, November 8, 2017 9:04 PM  
**To:** Sands, Jeffrey <sands.jeffrey@epa.gov>  
**Cc:** Starling, Ray A. EOP/WHO [Ex. 6 PP]; Jackson, Ryan <jackson.ryan@epa.gov>; Catanzaro, Michael J. EOP/WHO [Ex. 6 PP]  
**Subject:** Re: CERCLA-NRC

Thank you Jeff.

Sent from my iPhone

On Nov 8, 2017, at 9:03 PM, Sands, Jeffrey <sands.jeffrey@epa.gov> wrote:

Ray,

Received similar information regarding troubles with CERCLA reporting to the NRC.

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EPA hosted a series of calls with stakeholders today to revisit the specifics of our guidance and ensure that producers knew to report "continuous" releases as an immediate first step.

Additionally, Emergency Management program office took an action to reach out to NRC today on the following:

- Reminding them of the impending reporting deadline and the volume of calls coming that will be coming their way. Also, impressing the importance of being prepared for the subject matter and how best to handle reports to avoid mishaps.

- Revising requests from NRC for appropriate information needed (name, general location, substance released) in the database from producers reporting "continuous releases"

- Changing classification/category of early reports in NRC database that were not correctly identified as continuous which triggered further reporting/responses.

I did not have any correspondence that OEM had gotten in touch with the NRC when I left the office this evening but will get that information as soon as I can.

EPA is doing all that we can at present to ensure correct information is disseminated to stakeholders and reporting is done correctly. After hearing about the NRC confusion/difficulties, we are working to connect with them and remedy those issues with NRC before the reporting deadline or we hear from the court. Their concerns about the NRC and the implications associated with the mishandling of producer reports on releases are well-appreciated and understood not only from their perspective but as a resource/security challenge as well.

I will touch base with you early tomorrow as I have more information. I am available at any point if you have any further questions or need to connect.

Best,  
Jeff Sands

Sent from my iPhone

On Nov 8, 2017, at 6:55 PM, Starling, Ray A. EOP/WHO [Ex. 6 PP] wrote:

## Deliberative Process / Ex. 5

-----  
**From:** Andrew Walmsley [mailto:andrew@fb.org]

**Sent:** Wednesday, November 8, 2017 5:10 PM

**To:** Starling, Ray A. EOP/WHO [Ex. 6 PP]

**Subject:** [EXTERNAL] CERCLA-NRC

Ray-

Hate to ping you again on this but some of our producers have started to report their air emissions to the NRC and things are not going well. Here are just some of the problems so far reported from different farms:

- When a producer called the NRC on Monday, NRC sent an email notifying about 20 local, state and federal agencies of the report. The state department of health was notified as was the Memphis police department, supposedly located on the other side of the state.
- A turkey producer called NRC and EPA R7's criminal investigative division was notified.
- A Virginia producer called NRC and the employee insisted on understanding what caused the release. The farmer explained that it was a continuous release report, not an incident report, and that the release was ammonia from the natural decomposition of animal manure. The NRC employee mistakenly reported not ammonia, but anhydrous ammonia – big difference.
- When another producer called NRC, the operator told the producer that NRC does not issue the "incident number" assigned to that farm (producers need that number in order to file the follow-up report in 30 days). Instead, NRC referred the producer to EPA. When the producer called EPA, the employee responding to the call had no idea what the producer was talking about! This confusion may be explained by the confusing terminology. EPA's guidance references an "incident number" but NRC calls this number the CR-ERNS number (acronym relating to CERCLA continuous release reports).
- After a Texas producer called NRC, the local emergency planning committee was notified and they actually went to the farm to respond to an emergency. The producer was particularly concerned because at this time of the year farms must exercise heightened biosecurity protocols to avoid avian influenza.

This will have huge ramifications for the National Response Center along with local first responders. I'm sure a group of us would be happy to hop on the phone to discuss further.

Thanks,

Andrew

**Andrew Walmsley**  
**Director, Congressional Relations**  
**American Farm Bureau Federation®**  
**Phone: (202) 406-3686**  
**Cellular Phone / Ex. 6**  
**[andreww@fb.org](mailto:andreww@fb.org)**

Message

---

**From:** Fotouhi, David [Fotouhi.David@epa.gov]  
**Sent:** 11/9/2017 2:29:19 AM  
**To:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Subject:** Fwd: CERCLA-NRC

FYI

Sent from my iPhone

Begin forwarded message:

**From:** "Jackson, Ryan" <jackson.ryan@epa.gov>  
**Date:** November 8, 2017 at 9:26:52 PM EST  
**To:** "Bodine, Susan" <bodine.susan@epa.gov>  
**Cc:** "Fotouhi, David" <Fotouhi.David@epa.gov>, "Brown, Byron" <brown.byron@epa.gov>  
**Subject:** Fwd: CERCLA-NRC

Can we talk about this in the morning? I need to get a handle on this if FB is getting complaints.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA

Personal Phone / Ex. 6

Begin forwarded message:

**From:** "Starling, Ray A. EOP/WHO" <Ex. 6 PP>  
**Date:** November 8, 2017 at 5:54:54 PM CST  
**To:** "Jackson, Ryan" <jackson.ryan@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "sands.jeffrey@epa.gov" <sands.jeffrey@epa.gov>  
**Cc:** "Catanzaro, Michael J. EOP/WHO" <Ex. 6 PP>  
**Subject:** FW: CERCLA-NRC

**Deliberative Process / Ex. 5**

---

**From:** Andrew Walmsley [mailto:andreww@fb.org]  
**Sent:** Wednesday, November 8, 2017 5:10 PM  
**To:** Starling, Ray A. EOP/WHO <Ex. 6 PP>  
**Subject:** [EXTERNAL] CERCLA-NRC

Ray-

Hate to ping you again on this but some of our producers have started to report their air emissions to the NRC and things are not going well. Here are just some of the problems so far reported from different farms:

- <!--[if !supportLists]--><!--[endif]-->When a producer called the NRC on Monday, NRC sent an email notifying about 20 local, state and federal agencies of the report. The state department of health was notified as was the Memphis police department, supposedly located on the other side of the state.
- <!--[if !supportLists]--><!--[endif]-->A turkey producer called NRC and EPA R7's criminal investigative division was notified.
- <!--[if !supportLists]--><!--[endif]-->A Virginia producer called NRC and the employee insisted on understanding what caused the release. The farmer explained that it was a continuous release report, not an incident report, and that the release was ammonia from the natural decomposition of animal manure. The NRC employee mistakenly reported not ammonia, but anhydrous ammonia – big difference.
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This will have huge ramifications for the National Response Center along with local first responders. I'm sure a group of us would be happy to hop on the phone to discuss further.

Thanks,

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**Phone: (202) 406-3686**  
**Cell: Cellular Phone / Ex. 6**  
[andreww@fb.org](mailto:andreww@fb.org)



Message

---

**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 11/9/2017 4:08:46 AM  
**To:** Fotouhi, David [Fotouhi.David@epa.gov]  
**CC:** Jackson, Ryan [jackson.ryan@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]  
**Subject:** Re: CERCLA-NRC

Thanks! This is frustrating as Farm Bureau was on our big call today (see Jeff's response to Ray). We 3 did calls to notify trades, Ag commissioners and EPA Ag advisors that we're working with NRC to address the problem by the 15th. Andrew w FB just isn't talking to him teammates and likely went straight to Ray. We've spoken to NRC several times over the past few days and they are on it.

On Nov 8, 2017, at 9:38 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

I am available to discuss before 9:30 tomorrow morning. I'm also looping in Tate, since I know she has been doing outreach on this NRC issue.

Sent from my iPhone

On Nov 8, 2017, at 9:26 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

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---

Ryan Jackson  
Chief of Staff  
U.S. EPA

Personal Phone / Ex. 6

Begin forwarded message:

**From:** "Starling, Ray A. EOP/WHO" **Ex. 6 PP**  
**Date:** November 8, 2017 at 5:54:54 PM CST  
**To:** "Jackson, Ryan" <jackson.ryan@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "sands.jeffrey@epa.gov" <sands.jeffrey@epa.gov>  
**Cc:** "Catanzaro, Michael J. EOP/WHO" <Ex. 6 PP>  
**Subject:** FW: CERCLA-NRC

**Deliberative Process / Ex. 5**

---

**From:** Andrew Walmsley [mailto:andrew@fb.org]  
**Sent:** Wednesday, November 8, 2017 5:10 PM  
**To:** Starling, Ray A. EOP/WHO <Ex. 6 PP>  
**Subject:** [EXTERNAL] CERCLA-NRC

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Message

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**Sent:** 11/9/2017 4:01:10 AM  
**To:** Sands, Jeffrey [sands.jeffrey@epa.gov]  
**Subject:** Re: CERCLA-NRC

We've already been working with AFBF- who pinged Ray. They were on our calls!

On Nov 8, 2017, at 9:13 PM, Sands, Jeffrey <sands.jeffrey@epa.gov> wrote:

Apologies. Meant to tag you in the response.

Sent from my iPhone

Begin forwarded message:

**From:** "Sands, Jeffrey" <sands.jeffrey@epa.gov>  
**Date:** November 8, 2017 at 9:03:13 PM EST  
**To:** "Starling, Ray A. EOP/WHO" <[REDACTED] Ex. 6 PP>  
**Cc:** "Jackson, Ryan" <jackson.ryan@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Catanzaro, Michael J. EOP/WHO" <[REDACTED] Ex. 6 PP>  
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On Nov 8, 2017, at 6:55 PM, Starling, Ray A. EOP/WHO

Ex. 6 PP

wrote:

## Deliberative Process / Ex. 5

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**Sent:** Wednesday, November 8, 2017 5:10 PM

**To:** Starling, Ray A. EOP/WHO

Ex. 6 PP

**Subject:** [EXTERNAL] CERCLA-NRC

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**Director, Congressional Relations**  
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**Phone: (202) 406-3686**  
**Cell: { Cellular Phone / Ex. 6 }**  
**[andreww@fb.org](mailto:andreww@fb.org)**

Message

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**From:** Bodine, Susan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** 11/9/2017 4:02:07 AM  
**To:** Jackson, Ryan [jackson.ryan@epa.gov]  
**CC:** Fotouhi, David [Fotouhi.David@epa.gov]; Brown, Byron [brown.byron@epa.gov]  
**Subject:** Re: CERCLA-NRC

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Chief of Staff  
U.S. EPA

**Ex. 6 PP**

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**Date:** November 8, 2017 at 5:54:54 PM CST  
**To:** "Jackson, Ryan" <jackson.ryan@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "sands.jeffrey@epa.gov" <sands.jeffrey@epa.gov>  
**Cc:** "Catanzaro, Michael J. EOP/WHO" <[REDACTED]> **Ex. 6 PP**  
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**Deliberative Process / Ex. 5**

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**Subject:** [EXTERNAL] CERCLA-NRC

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**Phone: (202) 406-3686**  
**Cell: Cellular Phone / Ex. 6**  
**[andreww@fb.org](mailto:andreww@fb.org)**



Message

**From:** Jackson, Ryan [jackson.ryan@epa.gov]  
**Sent:** 10/15/2017 11:41:21 PM  
**To:** Starling, Ray A. EOP/WHO [Raymond.A.Starling@epa.gov]; **EOP / Ex. 6**  
**CC:** Dravis, Samantha [dravis.samantha@epa.gov]; Catanzaro, Michael J. EOP/WHO  
**EOP / Ex. 6**; Prandoni, Christopher D. EOP/CEQ **EOP / Ex. 6**  
**Subject:** Brown, Byron [brown.byron@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]  
Re: Ag CERCLA Reporting Issue

As a cheat sheet here's the thumb nail.

### CERCLA/EPCRA Statutory Reporting Requirement

- 2008 Final Rule
  - o In 2008, EPA published a final rule that exempted all farms that release hazardous substances from animal waste to the air that meet or exceed their reportable quantity from reporting under CERCLA §103. The rule also exempted farms other than CAFOs from reporting such releases under EPCRA §304.
- Court Decision
  - o The D.C. Circuit issued a decision vacating the 2008 rule on April 11, 2017. The court held that there was no ambiguity in CERCLA and EPCRA to allow for EPA's interpretation that it could promulgate a reporting exemption and that EPA's record did not support the rule.
  - o On July 3, 2017 the DC Circuit denied National Pork Producers Council's petition for rehearing
- Stay of the court's mandate
  - o DOJ filed a motion to delay issuance of the mandate on July 17. On August 16, the court granted EPA's motion to delay the mandate until November 14, 2017. The court allowed EPA to option to request an extension of the stay by October 30, 2017, which DOJ intends to request.
- Administrative Actions by EPA
  - o EPA is undertaking a three-pronged approach in response to the decision vacating the 2008 rule
    - CERCLA compliance guidance: by October 16, tomorrow, OLEM intends to post guidance to assist farms in complying with CERCLA continuous reporting requirements.

## Deliberative Process / Ex. 5

Ryan Jackson  
Chief of Staff  
U.S. EPA

**Personal Phone / Ex. 6**

On Oct 14, 2017, at 9:22 PM, Starling, Ray A. EOP/WHO **Ex. 6 PP** wrote:

EPA Colleagues —

Any chance you've had an opportunity to see where this is or are able to give us any read on where it's going?

Thanks,  
-Ray

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**From:** Starling, Ray A. EOP/WHO  
**Sent:** Monday, October 9, 2017 4:22 PM  
**To:** 'Dravis, Samantha' <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Cc:** Catanzaro, Michael J. EOP/WHO {[EOP / Ex. 6](#)}; Prandoni, Christopher D. EOP/CEQ <[EOP / Ex. 6](#)>  
**Subject:** Ag CERCLA Reporting Issue

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## Deliberative Process / Ex. 5

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Thanks,  
-Ray

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**From:** Paul Bredwell [<mailto:pbredwell@uspoultry.org>]  
**Sent:** Thursday, October 5, 2017 1:17 PM

To: Starling, Ray A. EOP/WHC EOP / Ex. 6

Subject: [EXTERNAL] Information we discussed on the call yesterday

Ray,

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I'm sorry this took me a little longer to get to you than I expected. I had long list of informational pieces but most were too far into the weeds. I borrowed from a few to develop the attached "one pager" (it's actually two pages.) Attached you will also find the letter of agreement/support we received from the president of the National Association of SARA Title III Program officials.

Please feel free to contact me if I can help in any way.

Best regards,

*Paul Bredwell*

Paul J Bredwell III, P.E.  
Vice President – Environmental Programs  
U. S. Poultry & Egg Association  
1530 Coledge Road  
Tucker, Georgia 30084  
D: 678-514-1973

**Ex. 6 PP**

[pbredwell@uspoultry.org](mailto:pbredwell@uspoultry.org)

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Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 10/15/2017 10:31:54 PM  
**To:** Jackson, Ryan [jackson.ryan@epa.gov]  
**CC:** Fotouhi, David [Fotouhi.David@epa.gov]  
**Subject:** Re: Ag CERCLA Reporting Issue

Will resend the talking points.

Sent from my iPhone

On Oct 15, 2017, at 2:29 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

---

Ryan Jackson  
Chief of Staff  
U.S. EPA

Personal Phone / Ex. 6

Begin forwarded message:

**From:** "Starling, Ray A. EOP/WHO" <[REDACTED] EOP / Ex. 6>  
**Date:** October 14, 2017 at 9:21:25 PM EDT  
**To:** "Dravis, Samantha" <dravis.samantha@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>  
**Cc:** "Catanzaro, Michael J. EOP/WHO" <[REDACTED] EOP / Ex. 6> "Prandoni, Christopher D. EOP/CEQ" <[REDACTED] EOP / Ex. 6>  
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**Cc:** Catanzaro, Michael J. EOP/WHO <[REDACTED] EOP / Ex. 6> Prandoni, Christopher D. EOP/CEQ <[REDACTED] EOP / Ex. 6>  
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Message

**From:** Starling, Ray A. EOP/WHO [REDACTED] EOP / Ex. 6  
**Sent:** 10/9/2017 8:22:24 PM  
**To:** Dravis, Samantha [dravis.samantha@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]  
**CC:** Catanzaro, Michael J. EOP/WHO [REDACTED] EOP / Ex. 6; Prandoni, Christopher D. EOP/CEQ [REDACTED] EOP / Ex. 6  
**Subject:** Ag CERCLA Reporting Issue  
**Attachments:** NASTTPO letter on release reporting.pdf; USPOULTRY CERCLA EPCRA Reporting Mandate Factsheet.doc

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# National Association of SARA Title III Program Officials

*Concerned with the Emergency Planning and Community Right-to-Know Act*

May 26, 2017

Christian Richter  
The Policy Group  
1800 M Street NW  
Suite 400 South  
Washington, DC 20036

Re: CAFOs and Emergency Release Reporting

Dear Mr. Richter:

I am writing on behalf of the National Association of SARA Title III Program Officials (NASTTPO), which is made up of members and staff of State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCS), Local Emergency Planning Committees (LEPCs), various federal, state and local agencies, private industry and the vast number of volunteers that perform emergency planning and emergency response activities for their communities. Our membership is dedicated to working together with regulated facilities, transportation entities and communities at large to improve community preparedness for emergency events including hazardous materials releases.

NASTTPO over the past several years has had the opportunity to work with various industry groups on emergency preparedness related rulemaking programs at EPA. These experiences have taught us that the most important thing to LEPCs and first responders is not detailed regulatory requirements for a facility's relationship to these groups, but rather the simple act of open dialog and coordination.

We have had experience with EPCRA emergency release reports as well as CERCLA continuous release reports from farms primarily regarding ammonia from animal waste disposal. These reports are of no particular value to LEPCs and first responders and they are generally ignored because they do not relate to any particular event. (This should be contrasted to the few farms that utilize gas chlorine for water treatment where emergency release reports are useful because they are event specific.)

LEPCs and first responders do not need more generic data. They need information that is locally relevant and upon which they can act. This goal is best obtained by a program that promotes coordination between the regulated facilities and these local groups. Recent discussions suggest that such a program involving farms may be achievable.

We are in favor of reducing regulatory burdens if coordination on the information needs of LEPCs and first responders occurs. The information we want from farms is community-specific. Only the LEPC and local first responders can determine what information they need from a farm as part of their emergency planning process. What we really need is coordination between the farm and local responders and LEPCs. We want them to talk to each other.

Thank you.



Timothy R Gablehouse

President

410 17<sup>th</sup> St, Ste 275

Denver CO 80202

(303) 572-0050

**October 5, 2017**

## **EPA Emission Reporting Requirements for Animal Manure from Family Farms**

**Background:** In 2004, the three major U.S. poultry industry trade associations petitioned the U.S. Environmental Protection Agency (USEPA) to exempt poultry farms from reporting emissions from animal manure to the Coast Guard's National Response Center, USEPA and local and state emergency response agencies.

The associations argued that: (1) The rules were not meant for farms – federal emergency response and “right to know” laws were never intended to apply to the air release of farms’ naturally occurring substances originating from the breakdown of animal waste; and (2) Reports are of no value to first responders – emergency response agencies nationwide, particularly those responders from poultry production states, questioned the need for poultry and other farmers to submit reports given the demands of other emergency response priorities.

**Industry Organizations:** U.S. Poultry and Egg (USPOULTRY), National Turkey Federation (NTF), and National Chicken Council (NCC). Other animal groups have since joined the effort.

**Relevant U.S. Laws:** The two relevant federal statutes under which the reporting exemption was requested are the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Preparedness and Community Right to Know Act (EPCRA).

**Key Rulemaking Milestones:** USEPA published a final rule on December 18, 2008, effective on January 20, 2009. The agency agreed *partly* with the rationale behind exempting the poultry and other animal sectors from the reporting framework of the CERCLA and EPCRA. The final rule is summarized below:

- (1) **Complete Reporting Exemption under CERCLA:** Farms were allowed a complete exemption from reporting emissions – or releases – regardless of their size if the air release of a hazardous substance is from animal manure. Farms would also avoid the absurd step of reporting a manure emission as an “emergency” to the U.S. Coast Guard's National Response Center along with rail accidents and tanker truck explosions.
- (2) **Partial Reporting Exemption under EPCRA Based on Farm Size** – Farms would not be required to report to local and state emergency response agencies if the number of birds (or other animals) housed on a farm is below a certain threshold.

**Recent Legal Decisions:** Over six years later, in 2015, environmental groups opposed to the agency's action petitioned the DC Circuit Court of Appeals to vacate the farm reporting exemptions. In April 2017, the Court ruled in their favor. As a result of the decision, USEPA is legally compelled to require farms to notify multiple agencies from the local to federal level of

EPA Emission Reporting Requirements  
For Animal Manure from Family Farms (cont.)

the release of any hazardous substance, including ammonia and hydrogen sulfide, when the release exceeds 100 pounds per day. Agencies farms must report to include: (1) Local Emergency Planning Committees (LEPCs) at the county level; (2) State Emergency Response

Commissions (SERCs) at the state level; (3) USEPA Regional Offices at the federal level; (4) the U.S. Coast Guard's National Response Center at the federal level.

***Court Mandate for Reinstating Farms' Emissions Reporting is November 14, 2017*** – USPOULTRY and NPOPC was unsuccessful in its petition to the court for a rehearing. While EPA failed to request a rehearing, the agency won a petition for a delay in the submission of farms' release reports until July 9, 2017. Recently, the Court granted a six-month stay of the its reporting mandate for farms until November 14, 2017. The Court indicated it will consider an extension of the stay if EPA demonstrates that they agency is working to develop guidance for reinstating the nationwide mandate for farms.

***Urgent Industry Concerns with Reporting Deadline:*** Despite collecting substantial data from farms representing the major animal species, USEPA to date has been unable to develop technically credible estimation methodologies for farmers to use in making accurate estimates of their air emissions for reporting. If the reporting mandate is reinstated as of the November 14, 2017 court deadline, animal producers will be forced to submit reports that speculate they are exceeding the 100 pound per day reporting threshold. It will be difficult to impossible for EPA and the industry associations in the coming weeks to educate and provide proper guidance on the new reporting requirements to the tens of thousands of farms across the nation, and farms unaware of the new mandate that fail to report will face citizen suits from activist groups.

***Local Emergency Response Agencies See No Value in Farm Reports:*** The nation's local emergency response associations agree with poultry and other animal agriculture associations on the need for a more effective and efficient approach to resolving this issue. In fact, the leadership of the local emergency response community has notified USEPA Administrator Pruitt that receiving reports from farms is an essentially useless exercise in achieving their objectives. *See recent letter from the president of the nation's local emergency responders association, the National Association of SARA Title III Program officials (NASTTPO).*

**Current Status and Recommendations:** If there is an opportunity to reduce unnecessary regulatory burdens that aligns with the White House's regulatory reform initiatives, we believe this is an example of an urgent regulatory reform priority for the Administration.

***Pending EPA Action*** – *In light of the DC Circuit's November 14 reporting deadline for farms, the administration is releasing guidance on October 16. The agency should use its discretion to provide a complete administrative exclusion for reporting farm emissions from animal manure under both EPCRA and CERCLA laws and request an extension of the court deadline to commence a rulemaking to formally establish exclusions.*

***Federally Supported Voluntary Effort between Animal Agriculture and Emergency Responders*** – Major Ag trade associations would welcome an opportunity to work with EPA, USDA and the administration to develop a voluntary, collaborative effort to address this issue at the local level between farmers and the emergency responder community.

Message

**From:** Jackson, Ryan [jackson.ryan@epa.gov]  
**Sent:** 10/15/2017 6:29:20 PM  
**To:** Starling, Ray A. EOP/WHO [REDACTED] **EOP / Ex. 6**  
**CC:** Dravis, Samantha [dravis.samantha@epa.gov]; Catanzaro, Michael J. EOP/WHO  
[REDACTED] **EOP / Ex. 6**; Prandoni, Christopher D. EOP/CEQ [REDACTED] **EOP / Ex. 6**  
**Subject:** Re: Ag CERCLA Reporting Issue

Yes, I'll shoot you some bullets in the morning.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA

[REDACTED] **Personal Phone / Ex. 6**

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